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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fiftieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the Elimination of Racial Discrimination

Belgium

1. The Committee considered the ninth and tenth periodic reports of Belgium, submitted in one document (CERD/C/260/Add.2), and adopted the following concluding observations at its 1211th and 1212th meetings (see CERD/C/SR.1211 and 1212) on 20 March 1997.

A. Introduction

2. The Committee welcomes the ninth and tenth periodic reports submitted by the Government of Belgium in one document and the opportunity thus offered to continue its dialogue with the State party. It expresses to the Belgian Government its satisfaction regarding the quality of the report although it regrets that it was not submitted within the time limit. It also thanks the high-level delegation for the additional information submitted orally in reply to the numerous questions asked by members of the Committee and considers its dialogue with the delegation to have been fruitful and constructive. The Committee noted the desire of the State party, as evidenced by the ongoing review of the operation of the police services and judicial institutions, to implement a more active policy for prosecuting racial offences.

B. Positive aspects

3. The Committee noted with interest the statement by the State party to the effect that - with a view to the accession of Belgium to article 14 of the International Convention on the Elimination of All Forms of Racial

Discrimination - steps have been taken at federal level and clarification has been requested from the United Nations High Commissioner for Human Rights/Centre for Human Rights concerning the procedure for implementing article 14, paragraph 2.

4. The Committee took note with satisfaction of the institutional and statutory measures recently adopted by the Belgian authorities to combat racism and xenophobia. It noted the amendments to the Act of 30 July 1981 designed to curb certain acts motivated by racism or xenophobia. These measures led to the establishment in 1993 of the Centre for Equal Opportunity and Action to Combat Racism, the primary function of which is to receive complaints of racial discrimination and, if necessary, institute court proceedings. In addition, the Act of 12 April 1994 introduced changes to increase penalties and extend the scope of penalties for public expressions of intent to practise racial discrimination, for discrimination in the provision of goods or services and discrimination in employment, with regard to which the right to institute proceedings was granted to workers' and employers' organizations.

5. The Committee noted with satisfaction the various measures taken regionally to ensure the integration and participation of foreigners, in particular the promulgation of the decree of 4 July 1996, the purpose of which is to approve and subsidize centres in the Walloon Region for the integration of foreigners or persons of foreign origin.

6. The Committee took note of the penalties introduced by the Act of 15 December 1980 as reprisals against the organizers of illegal immigration networks and traffic in persons, particularly foreigners.

7. The Committee also noted with great interest and appreciation the role of the Centre for Equal Opportunity and Action to Combat Racism in preventing discrimination by considering complaints of acts of racial discrimination, by setting up training courses for the police and gendarmerie and the judicial police and by organizing information campaigns for foreigners and campaigns to enhance public awareness of action to combat racism. The Committee is also pleased to welcome the initiatives taken in the spheres of education and information to overcome the prejudices which give rise to racial discrimination.

C. Principal subjects of concern

8. The Committee noted the entry into force of the Act of 23 March 1995 prohibiting the denial, minimization, justification or approval of the genocide committed by the German national socialist regime during the Second World War, thus filling a gap in the law. Concerns are, however, expressed that the scope of this Act, which does not refer to all types of genocide, is too restricted.

9. The Committee expressed serious concerns about case law in Belgium which interprets as a press offence any written material containing a criminal expression which is printed, reproduced and distributed. It is a

matter for concern that the Act of 1981, amended in 1994, and the Act of 1995, both of which tend to apply severer sanctions to acts inspired by racism and xenophobia, are not implemented in this connection.

10. Particular concern is again expressed regarding the Belgian Government's declaration on the provisions of article 4 of the Convention. The Committee also noted with concern that the State party has not taken any legislative measures to declare illegal and prohibit organizations which incite to racial discrimination as article 4 (b) of the Convention provides. Strong concern was also expressed at the existence in the Flemish Community of a political party with an extremist and xenophobic ideology.

11. Although Belgium's legislative system tends to eliminate most provisions which restrict the rights of foreigners and refugees, the Committee regretted that, with regard to article 5 of the Convention, the report contained no information concerning the economic, social and cultural situation of Belgian citizens of foreign origin - Moroccans, Turks, Italians or others - or that of persons established in Belgium but not Belgian citizens.

12. Concern was expressed at the allegation that the Public Prosecutor's Department and the police are less zealous in the prosecuting of offences in cases where the victim is not of European origin.

13. Concern was also expressed about article 18 bis of the Act of 15 December 1980, permitting the limitation of the temporary or permanent residence of foreigners in certain communes.

14. The Committee expressed regret at the lack of detailed information on complaints of racist and xenophobic acts received by the Centre for Equal Opportunity and Action to Combat Racism. Further information was also requested on the number of complaints of racial discrimination taken to court, the nature of such complaints and how they were handled.

15. The Committee noted with regret that the report submitted by the State party made no explicit reference to the Committee's conclusions and recommendations following its consideration of the previous report and that it had not been widely publicized.

D. Suggestions and recommendations

16. The Committee suggests that all necessary efforts should be made to ensure the full implementation of the Convention in Belgian law and the possibility of invoking it before the courts.

17. The Committee recommends that the Belgian legislative system should ensure greater consistency in formulating new laws and, in particular, that adjustments should be made to the Constitution and the laws to permit more effective criminal prosecution of racist, negatory or discriminatory writings as such. The Committee suggests that the Act of 23 March 1995 which prohibits the denial, minimization, justification or approval of the genocide committed by the German national socialist regime during the Second World War should be broadened to cover the different types of genocide. The Committee recommends that the State party should include in its next periodic report information on

the results of putting into effect recently-adopted legislation, as mentioned above, and the obstacles encountered in so doing. The Committee is not satisfied with the replacement in the Act of 12 April 1994 of the concept of "national or ethnic origin" by the concepts of "origin" or "nationality" and suggests an amendment in keeping with the terms used in article 1, paragraph 1 of the Convention.

18. The Committee recommends that the Belgian Government should take the necessary legal steps to implement article 4 (b) of the Convention, according to which States parties shall declare illegal and prohibit organizations "which promote and incite racial discrimination". The Committee also recommends that the State party should include in its next report information on complaints of discrimination under article 4 of the Convention, and on how the courts handle them.

19. The Committee recommends that the State party should include in its next report statistical data on the ethnic composition of the Belgian population, and especially the percentage of Belgian citizens of foreign origin in the country and in the various communities, and the number of persons established in Belgium who are not Belgian citizens. Detailed information on their socio-economic situation, particularly the unemployment rate in the various ethnic communities, would be much appreciated.

20. The Committee recommends that the Belgian Government should ensure, by means of appropriate information and training, that the judicial authorities and the police treat persons of European and non-European origin in the same way.

21. The Committee recommends that the State party should reconsider article 18 bis of the Act of 15 December 1980 which appears to be in breach of article 5 (d) (i) of the Convention.

22. The Committee recommends that additional information should be provided on the activities of the Centre for Equal Opportunity and Action to Combat Racism, along with detailed information on the number of complaints of racial discrimination filed with the courts, the results of proceedings instituted in cases of racial discrimination and the compensation granted, where appropriate, to the victims of the said discrimination.

23. The Committee recommends that the Belgian Government should take account, in preparing its next report, of these conclusions and recommendations of the Committee. It suggests that the State party should ensure that the report and these conclusions are widely distributed to the public in the various languages used in Belgium.

24. The Committee recommends that the State party should ratify the amendment to article 8, paragraph 6 of the Convention, adopted by the fourteenth meeting of States parties.

25. The Committee recommends that the State party's next periodic report should be an update of the last report and that it should address all the points raised during the consideration of the report.